

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

RICHARD W. CODY,

Plaintiff,

-vs-

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

CASE NO. 1:13 CV 00344

ORDER

UNITED STATES DISTRICT JUDGE LESLEY WELLS

Plaintiff Richard W. Cody seeks judicial review of the defendant Commissioner of Social Security's final decision denying his claim for Supplemental Security Income. On 15 February 2013, this matter was automatically referred to United States Magistrate Judge Vernelis K. Armstrong pursuant to Local Rule 72.2. This case comes before the Court on the plaintiff's objection to the Magistrate Judge's Report and Recommendation ("R&R"). For the reasons that follow, the objection is overruled and the Magistrate Judge's recommendations are accepted.

The plaintiff raised six assignments of error. According to the R&R, only two of them have merit. First, the Magistrate Judge concluded that the ALJ did not abide by the "treating physician rule," by failing to properly consider the opinion of the plaintiff's orthopedist. Second, the Magistrate Judge found merit to the claim that the ALJ failed to

properly consider the opinion of one of the state examiners. The Magistrate Judge accordingly recommended reversal and remand with respect to these errors alone. It was recommended that the decision of the Commissioner be affirmed with respect to the remaining assignments of error.

Neither party objects to the conclusion that the case should be reversed and remanded with respect to the errors identified by the Magistrate Judge. However, the plaintiff maintains that the Court should reject the recommendation that the Commissioner's decision be approved in other respects. The plaintiff offers no specific arguments as to the nature of Magistrate Judge's error in recommending that portions of the Commissioner's decision be approved. Because review under 28 U.S.C. § 636 is limited to those portions of the R&R to which specific objection is made,<sup>1</sup> the Court declines to consider the arguments already rejected by the Magistrate Judge.

The plaintiff lodges a general objection and suggests that if the report and recommendation were adopted in its entirety, it would result in the adjudication of issues not necessary to the decision to remand. In the plaintiff's view, the Court should not rule on the issues that the Magistrate Judge resolved against him, because, however they are resolved, remand would still be necessary. While this may be true, the plaintiff provides no authority that would prevent the Court from approving the Commissioner's

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<sup>1</sup> The failure to file specific objections constitutes a waiver of the right to appeal the magistrate's recommendations. Thomas v. Arn, 474 U.S. 140, 155 (1985). "The objections must be clear enough to enable the district court to discern those issues that are dispositive and contentious." Miller v. Currie, 50 F.3d 373, 380 (6th Cir.1995). "The filing of vague, general, or conclusory objections does not meet the requirement of specific objections and is tantamount to a complete failure to object." Cole v. Yukins, 7 F. App'x. 354, 356 (6th Cir.2001) (citing Miller, 50 F.3d at 380).

decision in some respects but not others. Therefore, the plaintiff's objection is overruled.

The Magistrate Judge's recommendations are accordingly accepted. The decision of the Commissioner is reversed and the case is remanded for the purpose of providing proper consideration of the opinions of the plaintiff's treating orthopedist and state examiner Dr. Goldsmith. The Commissioner's decision is otherwise approved, as set forth in the R&R.

IT IS SO ORDERED.

/s/ Lesley Wells  
UNITED STATES DISTRICT JUDGE

Date: 18 November 2013